

BACKGROUND PAPER FOR THE BUREAU OF REAL ESTATE

**(Joint Oversight Hearing, March 9, 2016, Senate Committee on
Business, Professions and Economic Development and the Assembly
Committee on Business and Professions)**

IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS REGARDING THE BUREAU OF REAL ESTATE

BRIEF OVERVIEW OF THE BUREAU OF REAL ESTATE

History and Function of the Bureau of Real Estate

Real estate licensing in California commenced in 1917. The Bureau of Real Estate (CalBRE or Bureau) is the State entity currently charged with responsibility to enforce the Real Estate Law, the Subdivided Lands Act, and the Vacation Ownership and Time-share Act of 2004. CalBRE's programs are in place to satisfy the Bureau's statutorily mandated obligations of licensing and regulating mortgage loan originators, real estate and prepaid listing service licensees, reviewing and approving subdivision and time share offerings, and approving continuing education (CE) and pre-license courses. Within the framework of requirements of Division 4 of the Business and Professions Code (BPC) and the Regulations of the Real Estate Commissioner as contained in the California Code of Regulations (CCR), each of CalBRE's programs contribute toward satisfying its mission of protecting and serving the interests of the public in real estate transactions and providing related services to the real estate industry. Specifically, BPC § 10050 requires the Real Estate Commissioner to enforce all laws commencing with BPC § 10000 and BPC § 11000 of Part 2 in a manner which achieves the maximum protection for the purchasers of real property and those persons dealing with real estate licensees.

Governor's Reorganization Plan No. 2

In 2012, Governor Brown submitted a reorganization plan to the Legislature. As a result, on July 1, 2013, CalBRE became a bureau within the Department of Consumer Affairs (DCA), moving from the independent Department of Real Estate (DRE).

AB 1317 (Frazier, Chapter 352, Statutes of 2013) enacted the statutory changes necessary to reflect the changes in law made by the Governor's Reorganization Plan No. 2, including moving the former DRE from under the jurisdiction of the former Business, Transportation, and Housing Agency to become a new CalBRE under DCA within the Business, Consumer Services, and Housing Agency.

With respect to its core functions, CalBRE currently licenses 405,985 persons in California. Licensed salespersons (265,645) outnumber licensed brokers (136,232) nearly two to one. Of the 402,000 real estate licensees, over 23,600 have a Mortgage Loan Originator (MLO) endorsement that allows the licensee to originate residential mortgage loans. Last fiscal year, CalBRE issued over 25,000 new licenses and renewed over 79,000. CalBRE's enforcement efforts resulted in 185 license denials, 705 licensing disciplinary actions (revocations, surrenders, suspensions and public reprovls) and 62 Desist and Refrain Orders. Moreover, CalBRE issued over 2,350 final public reports, which translated to 30,641 new housing units being offered for sale in California in FY 2014/2015.

The Bureau's mission is to:

The mission of the California Bureau of Real Estate is to safeguard and promote the public interests in REAL ESTATE MATTERS through licensure, regulation, education and enforcement.

On February 13, 2013, Governor Jerry Brown appointed Wayne S. Bell as Real Estate Commissioner for the State of California, and Mr. Bell was confirmed unanimously as Commissioner by the California State Senate. As Commissioner, Mr. Bell is the chief officer of CalBRE, which is the successor to the former California Department of Real Estate (DRE).

CalBRE does not currently have a "board" or statutory advisory body. Originally established in 1935, as advisory body to the Commissioner, the Real Estate Advisory Commission (REAC) was repealed in 2005 along with eight other boards and commissions within state government through a Budget trailer bill (SB 64, Chapter 77, Statutes of 2005). The elimination stemmed from a recommendation of Governor Arnold Schwarzenegger's California Performance Review.

The CalBRE executive team has a current practice of meeting with the real estate industry, and members of the public, in an open, public forum three times per year to present issues of mutual interest, provide operational and budget related information, give updates on enforcement and audit cases, and present the opportunity for an open forum for any questions or concerns to be posed to the panel. CalBRE executive management also meets with representatives of the building industry at least twice a year to provide similar information and to address specific concerns with the processing of subdivision filings. Absent a formal advisory committee, CalBRE reports that it routinely establishes task forces and special projects with industry volunteer participants to tackle key issues.

Although the Bureau is not a voting member, CalBRE staff sits on various bodies including the Conference of State Bank Supervisors (CSBS) and Nationwide Mortgage Licensing System and other legal and licensing committees. This ensures CalBRE has the ability to voice any concerns or suggested enhancements to the CSBS. CalBRE staff also collaborate with other states' regulators of real estate activities and related entities such as title insurance companies, mortgage lenders and originators, and closing and settlement agents. CalBRE believes that these collaborations assist in identifying issues and trends in real estate license compliance.

Fiscal, Fund and Fee Analysis

At the end of FY 2014/2015, CalBRE had a 9.6 month reserve in the Real Estate Fund (Fund). Per BPC § 10226, if the fund exceeds an amount equal to 150 percent of the Bureau's authorized budget as of June 30 of the current fiscal year, for the following fiscal year the Commissioner is required to reduce fees so that the balance of the Fund does not exceed an amount equal to 150 percent of the Bureau's authorized budget for that following fiscal year.

Fund Condition						
(Dollars in Thousands)	FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Beginning Balance	\$30,383	\$27,898	\$31,492	\$38,256	\$40,927	\$34,873
Revenues and Transfers	\$43,054	\$46,736	\$51,000	\$50,034	\$45,307	\$48,807
Total Revenue	\$73,437	\$74,634	\$82,492	\$88,290	\$86,234	\$83,680
Budget Authority	47,354	\$46,495	\$48,082	\$49,869	\$51,361	\$52,386
Expenditures	\$46,611	\$43,257	\$44,875	\$47,363	\$51,361	\$ 52,386
Loans to General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Accrued Interest, Loans to General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Loans Repaid From General Fund	\$0	\$0	\$0	\$0	\$0	\$3,500
Fund Balance	\$26,826	\$31,377	\$37,617	\$40,927	\$34,873	\$31,294
Months in Reserve	7.4	8.4	9.5	9.6	8.0	7.0

As of January 12, 2016, the Governor's Budget for FY 2016/2017 for the CalBRE is proposed at \$54.38 million. Items affecting the Bureau's appropriation include Budget Letters making augmentations for employer retirement rate, health care rate and employee compensation increases as well as a Statewide and Departmental pro-rata adjustments and a Budget Change Proposal for additional Bureau staffing.

It is also important to note that the Bureau loaned \$10.9 million to the General Fund per the Budget Act of 2002. The Bureau has yet to receive reimbursement for this loan.

Bureau Fee Authority

Real estate licenses are issued for a period of four years. In addition to the four year license term, licensees are provided two years past their expiration date to renew a license on a late basis. CalBRE's last fee change occurred in 2009, when license fees were increased to the statutory maximum.

Fee Schedule and Revenue (Dollars in Thousands)							
Fee	Current Fee Amount	Statutory Limit	FY 2011/12 Revenue	FY 2012/13 Revenue	FY 2013/14 Revenue	FY 2014/15 Revenue	% of Total Revenue
Exam Fees							
Salesperson Exam Fee	\$60	\$60	\$1,403	\$1,838	\$2,589	\$2,656	4.64%
Broker Exam Fee	\$95	\$95	\$911	\$1,159	\$641	\$576	1.80%
Original License Fees							
Salesperson	\$245	\$245	\$3,266	\$4,097	\$5,270	\$6,059	10.23%
Broker or Broker /Officer	\$300	\$300	\$1,466	\$1,675	\$979	\$916	2.76%
Corporation	\$300	\$300	\$563	\$617	\$687	\$555	1.33%
Renewal Fees							
Salesperson On Time	\$245	\$245	\$9,582	\$9,635	\$10,509	\$9,811	21.64%
Salesperson Late	\$367	\$367	\$4,213	\$4,160	\$4,224	\$4,092	9.13%
Broker On Time	\$300	\$300	\$6,092	\$6,173	\$6,865	\$6,434	13.99%
Broker Late	\$450	\$450	\$1,484	\$1,553	\$1,544	\$1,496	3.33%
Corporation On Time	\$300	\$300	\$1,023	\$1,011	\$954	\$1,091	2.23%
Corporation Late	\$450	\$450	\$270	\$299	\$397	\$274	0.68%
MLO Endorsement Fees*							
Salesperson, Broker, and Real Estate Corporation	\$300	Set in regulation	\$6,574	\$6,884	\$6,706	\$6,773	14.74%
Subdivision Filing Fees							
	var	var	\$4,365	\$5,789	\$7,267	\$7,270	13.51%

MLO endorsements, original, and renewal applicants apply through the Nationwide Multistate Licensing System and Registry (NMLS). Applicants pay the \$300 fee to NMLS which in turn transmits those monies to CalBRE. NMLS charges \$15 as a processing fee.

For FY 2016/2017, the Bureau's licensing program is projected to account for 18 percent of the Bureau's expenditures, the enforcement program for 52 percent, the subdivision program accounted for 11 percent and administration costs for 9 percent. The Bureau's DCA Pro Rata costs for the same fiscal year are projected to account for 10 percent of the Bureau's expenditures. CalBRE's pro rata for FY 2015/2016 was established in the Governor's Budget at \$4,876,000. DCA is scheduled to charge CalBRE \$5,202,000 for pro rata in FY 2016/2017.

Expenditures by Program Component (dollars in thousands)								
(Dollars in Thousands)	FY 2011/12		FY 2012/13		FY 2013/14		FY 2014/15	
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E
Licensing*	\$5,413	\$3,712	\$5,126	\$2,953	\$5,839	\$ 2,467	\$5,995	\$ 2,518
Enforcement**	\$15,239	\$10,449	\$15,209	\$8,762	\$15,482	\$ 9,669	\$16,821	\$ 9,877
Subdivision	\$3,026	\$2,075	\$3,176	\$1,830	\$3,530	\$ 1,491	\$3,579	\$ 1,503
Administration***	\$3,961	\$2,716	\$3,849	\$2,218	\$3,066	\$ 1,296	\$3,042	\$ 1,278
DCA Pro Rata****	-	-	-	-	-	\$1,826	-	\$ 2,740
TOTALS	\$27,639	\$18,952	\$27,360	\$15,763	\$27,917	\$ 16,749	\$29,437	\$17,916

*Examination, Education & Research included within Licensing.
**Audits and Legal included within Enforcement.
***Administration includes costs for executive staff, administrative support, and fiscal services.
****The Bureau did not go under DCA until July 1, 2013.

Staffing Levels

The Governor’s 2016/2017 budget includes authority for 332.7 positions for CalBRE.

The Bureau reports that several key employees have retired over the past two years. In an attempt to mitigate the impacts caused by these departures, CalBRE has brought some of these individuals back temporarily as retired annuitants in order to train successors. The Bureau reports that it has also submitted a BCP for FY 2016/2017 requesting three Special Investigators to support the Bureau’s Subdivisions Program. The Bureau states that it facilitates staff development through the use of internal training and staff development and the services offered by DCA’s Strategic Organizational Leadership and Individual Development (SOLID) Training and Development unit which provide staff training to boost analytical skills, computer and software skills and supervision.

Licensing

The Bureau reports that as a result of an improving California economy and housing market, the number of applications for examinations and licensure has sharply increased over the past four fiscal years. FY 2014/2015, for example, had a 59 percent increase in salesperson examinations scheduled and a 54 percent growth in salesperson licenses issued, as compared to FY 2012/2013. The license population peak for the Bureau was in November 2007 at 549,250 licensees. The current license population as of February 29, 2016 is 405,790.

The Bureau notes that the uptick in licensure has created additional workload resulting in an increase in the average number of days it takes for the Bureau to complete the application process. The Bureau’s internal policy is to take no longer than 43 days to complete the licensure process and

attempts to either deny or issue a real estate salesperson or real estate broker license within that timeframe. In FY 2011/2012, it took the Bureau 44 days on average to process an application. That number increased to 73 days for FY 2014/2015.

The examination and licensing process for out-of-state and out-of-country applicants is no different than it is for applicants within the state. Each applicant for licensure must qualify for the appropriate written examination in California and meet all other statutory requirements. California has no reciprocity with any other state or country to allow a waiver of any of the requirements to obtain a license.

According to CalBRE, the combination of improvements in the improving economy, climbing home prices and increased real estate sales are traditional indicators that applications for licensure will continue to grow. The Bureau believes that this growth will continue to strain licensing operations and may have a negative impact on the timeline for licensure. The Bureau states that it has attempted to mitigate increased workload by relying on overtime and also redirecting resources from other sections of the Bureau when possible.

Real estate broker and salesperson license applicants must pass a written examination in order to be issued a license. To qualify for the real estate examination, all license applicants must complete specific three semester unit, or four quarter unit, college level courses from an accredited college or university, or through a private provider approved by the Commissioner.

Broker license applicants must provide evidence of two years of licensed real estate experience, or an equivalent type of experience, completed within five years prior to the date of application. Salesperson license applicants do not have an experience requirement. Prepaid Rental Listing Service applicants are not required to take an examination or submit evidence of experience or education to become licensed.

To pass the salesperson exam, a score of 70 percent is required. To pass the broker examination, a score 75 percent must be achieved. The Bureau uses a California specific examination instead of a national exam. Average pass rates for first time salesperson applicants for the past three fiscal years are 48 percent and 16 percent for retakes. Average pass rates for first time broker applicants are 34 percent and 17 percent for retakes. CalBRE noted that the overall pass rate for salesperson exams last year was 54 percent and 42 percent for brokers, consistent with historical averages.

The Bureau uses computer based testing for the real estate salesperson and broker examinations. The computer-based system allows examinees to take examinations electronically and receive their results immediately following completion of the test. In addition, qualified candidates who have submitted a Combination Examination and License Application with no deficiencies and who pass their exam can be issued their license upon passage which allows them to immediately go to work. These successful examinees receive their license identification number as part of this authorization and the CalBRE public information on the Web site is immediately updated.

The electronic examination system is in an easy-to-use format, where exam workstations contain only a computer monitor and mouse; keyboards are not used. The activation of the workstation occurs with the assignment of a mouse to an examinee. Examinees are able to navigate back and forth through the

questions and choose answers by pointing and clicking with the mouse. Other benefits include testing tools such as a clock which counts down the individual's exam time and a counter which tracks the number of questions answered and those remaining. Computer based testing is available at all five of the Bureau's examination centers located in Fresno, La Palma, Oakland, Sacramento and San Diego. Examinations can be administered Monday through Friday, and at some locations on Saturday based on demand.

Applicants are required to submit copies of education transcripts to show completion of required education. In order to verify experience, broker license applicants must submit Experience Verification forms, which provide a description and details of the applicant's experience. The forms must be signed by the salesperson's previous broker(s) of record. In the case where the applicant submits an equivalent experience claim, an employment verification form must be submitted which provides a description and details of the applicant's experience. The form(s) must be signed by two individuals, one of whom must have had supervisory responsibility over the applicant.

All licensees have been fingerprinted with the exception of those licensees who obtained their license prior to 1971, which was when the Bureau began fingerprinting applicants for licensure. CalBRE receives and reviews criminal background check information from the Department of Justice (DOJ). CalBRE also reviews the applicant's answers to questions concerning criminal violations, prior disciplinary action taken against a professional license and pending criminal charges. The DOJ notifies CalBRE of subsequent arrests of current licensees. All applicants are fingerprinted using Live Scan.

CalBRE requires primary source documentation of all applicants. With respect to arrest and conviction information, CalBRE obtains certified copies of court documents and police reports for use in cases that lead to a filing of a statement of issues against an applicant or accusation, against a licensee. Applicants are required to submit copies of education transcripts to show completion of required education.

To increase the efficiency of the examination and licensing processes, the former DRE developed eLicensing, an interactive online system that allows examination and licensing processes to be completed via the Internet. CalBRE reports that eLicensing has been well received by the real estate industry and earned the DRE a 2003 Microsoft Solution Showcase Award. eLicensing allows for expedited processing, paperless transactions and is easy to use, allowing applicants to create and control a personal ID and password securely. The system also allows for automated fee payment by credit or debit card and features helpful tutorials, answers to frequently asked questions, and confirmation for applicants that applications are complete.

To use eLicensing, applicants must have an accurate social security number or individual tax identification number and date of birth on file with CalBRE and be licensed in good standing. License renewals may not be filed using eLicensing if the applicant holds a restricted license.

Mortgage Loan Originator License Endorsement

Title V of Public Law 110-289, the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act), was passed on July 30, 2008. The new federal law gave states one year to pass legislation requiring the licensure of mortgage loan originators according to national standards and the

participation of state agencies on the NMLS. The SAFE Act is designed to enhance consumer protection and reduce fraud through the setting of minimum standards for the licensing and registration of state-licensed mortgage loan originators.

The Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) created the NMLS; the NMLS is managed by State Regulatory Registry (SRR), a nonprofit corporation owned by CSBS. The NMLS contains a single license record for each mortgage loan lender, broker, branch and MLO that can be used to apply for, amend, and renew a license in any state.

The SAFE Act requires state-licensed MLOs to pass a written qualified test, which covers federal and state law, to complete pre-licensure education courses, and to take annual CE courses. The SAFE Act also requires all MLOs to submit fingerprints to the NMLS for submission to the FBI for a criminal background check, and authorization for the NMLS to obtain an independent credit report. Each endorsement expires yearly on December 31. Each annual renewal involves a CE requirement.

SB 36 (Calderon, Chapter 160, Statutes of 2009), urgency legislation, was signed into law in October 2009, in order to bring California into compliance with the SAFE Act. SB 36 required all CalBRE real estate licensees who conduct residential MLO activities, as outlined in the SAFE Act, to meet specific requirements to qualify for a MLO real estate license endorsement by January 1, 2011.

CalBRE uses NMLS to manage all MLO license endorsements. All applications for the MLO license endorsement and any changes to MLO records must be submitted electronically through NMLS. Information submitted through NMLS must match current CalBRE records. All applicants requesting a MLO license endorsement from the CalBRE must hold a current real estate license which is in a "current license status". A CalBRE license in an expired, revoked, suspended or surrendered status will not be approved for the MLO license endorsement. After the MLO license endorsement is approved, the real estate license must be maintained in order to retain the approval of the MLO license endorsement.

Continuing Education (CE)

Licenses are issued for a four-year period and should be renewed prior to the expiration date listed on the license. CalBRE also mails a renewal reminder letter to the licensee's mailing address of record approximately 90 days prior to the license expiration date. The letter is sent as a courtesy notice only. Non-receipt of the renewal reminder letter does not relieve the licensee of the responsibility to renew the license. CalBRE's eLicensing online system offers expedited processing of salesperson and broker license renewals any time and day of the week.

A license is renewable without examination upon submittal of the renewal form, appropriate fee, and evidence of completion of the required CE. Real estate salespersons renewing an original license for the first time must complete 45 clock hours of CalBRE-approved CE consisting of five separate three-hour courses in Ethics, Agency, Trust Fund Handling, Fair Housing, and Risk Management as well as a minimum of 18 clock hours of consumer protection coursework. Remaining hours may be related to either consumer service or consumer protection courses. Real estate brokers renewing an original license for the first time with an expiration date on or after January 1, 2016, or who are renewing on a

late basis on or after January 1, 2016, must complete 45 clock hours of CalBRE-approved continuing education consisting of six separate three-hour courses in Ethics, Agency, Trust Fund Handling, Fair Housing, Risk Management, and Management and Supervision and a minimum of 18 hours of consumer protection coursework. Remaining hours may be related to either consumer service or consumer protection courses. For subsequent renewals, all real estate brokers and salespersons with an expiration date on or after January 1, 2016, or who are renewing on a late basis on or after January 1, 2016, must complete 45 hours of CalBRE-approved continuing education consisting of one eight-hour survey course covering the six mandatory subjects (Ethics, Agency, Fair Housing, Trust Fund Handling, Risk Management, and Management and Supervision), or licensees can choose to take each of the mandatory subjects separately, as well as a minimum of 18 hours of consumer protection courses. Remaining hours may be related to either consumer service or consumer protection courses.

MLO license endorsements are issued annually and expire December 31st of each year. The renewal requirements for a MLO license endorsement include a renewal request filed electronically through the NMLS, a renewal fee, and filing evidence of completion of 8 hours of CE. CE must be taken through sponsors approved through the NMLS. CE completed for the purpose of renewing a MLO license endorsement cannot be used to satisfy real estate license CE requirements. The MLO license endorsement renewal application filing period is from November 1 through December 31 each year.

CE audits are conducted by special investigators in the Bureau's Enforcement Section, or by Education Section staff. Audits are conducted to determine if all regulations are being followed, and to determine if the licensee has completed the required CE. Licensees found to be in violation may have disciplinary action taken against their license. CalBRE conducts routine sampling of the CE course verifications submitted by licensees. The last major audit of CE course submissions occurred in 2012. In May 2012, the Bureau completed an audit of 254,000 licensee CE records for those licensees who renewed using the eLicensing system during the previous four years. Out of this audit, 505 licensee records resulted in further review of CE attendance records. This audit resulted in a total of 50 CE failures.

Since FY 2013/2014, the Bureau has performed 21 investigative audits on CE sponsors. These investigative audits ensure that continuing education sponsors are adhering to Bureau regulations, and may lead to the withdrawal of a sponsor's approval to offer courses. As of this review, 15 CE course providers have had their course approvals withdrawn.

As of February 28, 2015, the Bureau had 302 schools approved to offer Statutory/Pre-License courses. Approved statutory courses have no expiration date; therefore reviews of courses are conducted based on complaints received from the public or by internal investigations. The Bureau can withdraw a course approval pursuant to CCR § 3003. As of February 28, 2015, the Bureau has 673 approved CE offerings taught by 130 schools.

Enforcement

Although the Bureau has no statutory mandate as to the length of time in which to complete a complaint investigation, processing performance goals have been adopted to ensure timely and thorough complaint investigations to maintain a high level of consumer protection. CalBRE works within the confines of the statute of limitations on all cases that are assigned for investigation, to

ensure investigations are concluded before the expiration of those limits. Specifically, BPC § 10101 states an action shall be filed not later than three years from the occurrence of the alleged grounds for disciplinary action, unless the acts or omissions with which the licensee is charged involves fraud, misrepresentation or a false promise. In those cases the accusation must be filed within one year after the date of discovery by the aggrieved party of the fraud, misrepresentation or false promise or within three years after the occurrence thereof, whichever is later, except that in no case shall an accusation be filed later than 10 years from the occurrence of the alleged grounds for disciplinary action.

The Bureau's internal policy requires that the processing timeframe for routine investigations be 180 days from receipt of the complaint to the completion of the investigation. For complaints involving complex and multifaceted issues associated with fraud or large numbers of targeted victims (such as with foreclosure rescue scams), the Bureau's goal is complete the investigation in one year. By monitoring caseloads and investigative efforts, the Bureau consistently manages to complete more than 82 percent of all investigations in under a year.

CalBRE states that it has been and will always be impacted by cyclical fluctuations of the real estate market. Past market cycles of "boom" and "bust" patterns placed alternating demands on the Bureau's Enforcement Program, first from a huge influx of license applicants requiring background reviews, to an increase in the number of unlicensed persons conducting real estate sales and/or mortgage loan originations, mortgage fraud, and ultimately an increase of foreclosure rescue and loan modification services fraud.

The impacts of these activities were addressed in part through new legislation that gave the CalBRE Enforcement Program more tools to combat mortgage fraud and other real estate misconduct. Furthermore, legislation has also added safeguards to protect consumers who seek out services from real estate licensees and made technical changes intended to clarify certain provisions of Real Estate Law. SB 53 (Calderon, Chapter 717, Statutes of 2011) gave the Real Estate Commissioner the authority to issue citations and fines of up to \$2,500 to both licensees and unlicensed persons found to have violated the Real Estate Law. Along with the authority to issue citations and fines, SB 53 also provided that any real estate broker who engages in escrow activities for five or more transactions in a calendar year, or whose escrow activities equal or exceed \$1 million in a calendar year, to file a report with CalBRE documenting the number of escrows conducted and the dollar volume escrowed during the calendar year in which the threshold was met. Additionally, this legislation authorized the Commissioner to assess penalties when a broker fails to file required reports with CalBRE.

Internal organizational improvements have also enhanced the Enforcement Program's handling of complaints. The Bureau created a Complaint Resolution Program (CRP), which attempts to resolve simple disputes or minor issues between consumers and licensees or subdividers as a potential alternative to formal investigations. CRP aims to respond quickly and informally to concerns brought by consumers by serving as a facilitator to resolve conflicts and/or to mitigate or prevent Real Estate Law violations. The Bureau reports that since its inception, the program has proven effective in resolving disputes, and reducing investigative staff workloads by addressing issues up front as opposed to at the conclusion of a lengthy investigative process. In the current fiscal year, over 160 cases were referred to the CRP program.

The Centralized Intake Unit (CIU) centralizes the complaint intake process. The CIU streamlines and standardizes practices allowing for better tracking of complaints, and freeing district office staff to focus resources on investigative efforts. Additionally, processing of licensee and applicant cases involving Criminal Offender Record Information (CORI) was centralized, which reduced demands on Enforcement investigators and allows Enforcement to focus resources on urgent and priority cases.

The Bureau's CIU has a system to prioritize complaints as they are received, categorizing complaints into three categories, urgent, priority and routine. Urgent complaints include predatory criminal acts like foreclosure rescue or conversion or elder abuse. Priority complaints include unlicensed activity, fraud and misrepresentation and issues with trust funds handling and recordkeeping. Routine complaints involve license compliance, standards of practice or advertising violations. Cases involving the greatest harm to the public take the highest priority.

	FY 2012/13	FY 2013/14	FY 2014/15
COMPLAINTS			
Intake*			
Received	5,023	5,773	5,031
Closed	4,779	4,312	2,057
Referred to INV	3,180	3,375	1,492
Average Time to Close	247	260	219
Pending** (close of FY)	1,996	1,321	852
Source of Complaint			
Public	3,134	4,033	4,492
Licensee/Professional Groups	n/a	n/a	n/a
Governmental Agencies	593	451	644
Other	622	684	423
Conviction / Arrest			
CONV Received	2,133	2,018	2,557
CONV Closed	2,789	2,652	2,584
Average Time to Close	n/a	n/a	n/a
CONV Pending** (close of FY)*	n/a	n/a	n/a

Enforcement Aging					
	FY 2012/13	FY 2013/14	FY 2014/15	Cases Closed	Average %
CalBRE Legal Cases (Average %)					
Closed Within:					
1 Year	919	481	292	1692	71.85%
2 Years	385	121	51	557	23.65%
3 Years	71	9	15	95	4.03%
4 Years	0	1	7	8	0.34%
Over 4 Years	0	0	3	3	0.13%
Total Cases Closed	1,375	612	368	2355	

Investigations (Average %)					
Closed Within:					
90 Days	1,151	1,233	1,267	3,651	32.55%
180 Days	744	600	709	2,053	18.3%
1 Year	1,308	1,222	943	3,473	30.96%
2 Years	816	749	474	2,039	18.18%

Other than subsequent arrest records provided to CalBRE from DOJ, there is no requirement by local officials or organizations, or other professionals, or for civil courts to report actions taken against a licensee. However, mandatory reporting requirements of certain criminal and licensing violations are set forth in BPC §10186.2 and BPC §10178. BPC §10186.2 requires a real estate licensee to notify the Bureau, within 30 days, of an indictment, felony charge, conviction, or any disciplinary action taken by another licensing entity or authority in California, another state, or by a federal agency. BPC § 10178 requires an employing broker to report to the Bureau whenever a real estate salesperson is terminated by the broker for any violation of the Real Estate Law. Real estate brokers failing to notify the Bureau of such terminations may be subject to disciplinary action.

The Bureau takes a multi-step approach to address the challenge associated with unlicensed activity. First, the Bureau prioritizes these types of violations for investigation, often working jointly with local and other state agencies. When investigations have been completed and violations confirmed, the Bureau issues Desist and Refrain orders which may be accompanied with Bar Orders enjoining unlicensed persons from working in real estate or related industries. With newly-acquired citation authority pursuant to Senate Bill 53 (Calderon, Chapter 717, Statutes of 2011), the Bureau may issue multiple citations and assess fines to unlicensed individuals or entities. Finally, in egregious cases of unlicensed activity the Bureau has adopted a vertical prosecution model, where a Bureau counsel, special investigator, and (when appropriate) an auditor work together, from case set up to final prosecution. All Desist and Refrain Orders filed against licensed and unlicensed persons are posted on CalBRE's website.

Cite and Fine

On January 1, 2012, the Bureau was given citation and fine authority, through the passage of SB 53 (Calderon, Chapter 717, Statutes of 2011). The regulations implementing CalBRE's citation authority were adopted on July 1, 2014.

The statutory authority for cite and fine provided the Bureau with another means to address all violations of the Real Estate Law by real estate licensees, as well as unlicensed individuals. The range of Bureau-issued fines, as set forth in statute, remains \$0 to \$2,500.

The Bureau considers the issuance of citations an opportunity to educate both licensees and non-licensees alike and to encourage and reinforce compliance with the Real Estate Law. While citation authority empowers the Bureau to issue a citation and impose a fine for any violation of the Real Estate Law, citations issued to real estate licensees are typically for relatively minor, or de minimis violations of the law that do not merit the higher disciplinary action. Citation authority also permits the Bureau to issue a citation and impose a fine on an unlicensed person engaged in an activity for which a real estate license is required. For those persons conducting unlicensed real estate activities, which

generally pose a greater risk to consumers, a citation and fine is significantly more substantive than a Desist and Refrain Order.

Trust account handling and recordkeeping violations account for the most common violations. These violations include: failure to conduct monthly reconciliation of trust accounts, allowing unlicensed and/or unbonded signatories on the broker trust account, using bank accounts that are not specifically designated trust accounts in the name of the broker as trustee, and minor shortages in the trust accounts. An additional violation frequently cited is the real estate licensee mortgage loan originator failure to submit required periodic business activity reports.

CITATION AND FINE			
	FY 2012/13	FY 2013/14	FY 2014/15
Citations Issued	18	116	402
Average Days to Complete	N/A	N/A	N/A
Amount of Fines Assessed	\$34,000	\$235,000	\$291,275
Reduced, Withdrawn, Dismissed	0	2	19
Amount Collected	\$34,000	\$233,300	\$226,825

The Bureau has not yet referred uncollected fines to Franchise Tax Board, noting that there is a high rate of compliance with citations, relatively few informal conferences and no formal hearings to date. The Bureau also has the authority to deny the renewal of a license belonging to a person who has an unpaid fine.

The authority to obtain cost recovery for investigations is relatively new and the process to ask for and collect costs is something that CalBRE is continuing to work on. BPC § 10106 was added to the Real Estate Law in 2011 by SB 706 (Price, Chapter 712, Statutes of 2011) and gave the Real Estate Commissioner the authority to obtain investigative costs for a licensee found to have violated the Real Estate Law. CalBRE asks for costs recovery in most all stipulations and cases that go to an administrative hearing. If a licensee does not pay investigative costs, the licensee's license can be suspended and will not be reinstated/renewed until the costs are paid. The CalBRE also has a contract with a collection agency, and when appropriate, uncollected debts may be given to the collection agency to pursue collection. The amount collected for cost recovery has increased every year since FY 2011/2012.

Restitution to the Consumer

There are several circumstances under which restitution may be made to the consumer. Through facilitation by a Bureau investigative staff member (other than CRP), the licensee may agree to refund a deposit or reimburse fees that he or she collected from a consumer. In some transactions involving property defects not being properly or fully disclosed, a licensee may agree to fix the defect. In the case of a citation issued, it may be accompanied by an order of correction that also requires a licensee to provide restitution to a consumer. If an accusation is filed, the Bureau may recover restitution for consumers by entering into settlements with licensees, or by asking an administrative law judge to order reimbursement, refund, or payment of damages to the victim(s).

The Bureau also has a Consumer Recovery Account (CRA) which is funded by a portion of licensing fees. The CRA enables a person who has been defrauded or had trust funds converted by a real estate licensee in a transaction that required that license, and who satisfies specified requirements, to recover at least some of his or her actual loss when the licensee has insufficient assets to pay for that loss. Since its inception in 1964, the Bureau has paid over \$52,000,000 to members of the public from the CRA. CalBRE states that approximately 54 percent of all applications for CRA payment meet the qualifications necessary for payment.

	FY 11/12	FY 12/13	FY 13/14	FY 14/15
Claims Filed	243	180	152	154
Claims Paid	94	77	104	119
Amount Paid	\$3,165,669	\$2,625,615	\$4,286,536	\$4,898,912
Total Active Claims				381

PRIOR SUNSET REVIEW: CHANGES AND IMPROVEMENTS

This is the first review of CalBRE. The former DRE was reviewed in 2011, at which time 35 issues were raised. Below are actions which have been taken over the last five years to address a number of these. In November 2015, the Bureau submitted its required sunset report to the Senate Committee on Business, Professions and Economic Development and Assembly Committee on Business and Professions (Committees). In the report, the Bureau described actions it has taken since its prior review to address the recommendations of the Committees. For those which were not addressed and which may still be of concern, they are addressed and more fully discussed under “Current Sunset Review Issues.” Items completed or pending based on recommendations from the Committees include the following:

- **ISSUE #1: Is the DRE able to meet the goals and objectives of its Five Year Strategic Plan developed in 2010?**

CalBRE reports that while many of the goals of the 2010-2015 strategic plan have been met, the reorganization and the transition from a Department to Bureau has created a new dynamic and CalBRE has begun the process of creating a new strategic plan. CalBRE reports that significant goals have been met from the 2010-2015 like the creation of Speakers Bureau where consumer groups and industry can request a speaker from CalBRE to make a presentation at an outreach event. CalBRE also created an internal employee recognition program wherein employees are peer nominated in five areas that relate to CalBRE’s core values. Electronic submission of Public Report applications will be operational early next year. Training modules and training regarding complex law involving mortgage brokering have been created

and internal statewide training provided for staff. Periodic internal statewide town halls are conducted where all CalBRE staff is allowed to ask questions of the executive staff and the executive staff can provide updates. The town halls are broadcast through CalBRE's video conferencing system from the Sacramento office to all four of the district offices. A centralized enforcement intake system has been deployed allowing for greater consistency in identifying urgent and critical cases.

- **ISSUE #2: Should a Real Estate Advisory Commission (REAC) be established with a public member majority to advise the Commissioner and give policy input to the DRE, the Administration and the Legislature?**

According to the Bureau, it maintains regular interaction with the public through forums conducted throughout the year. In addition, CalBRE executive management meets with representatives of the building industry at least twice a year to provide similar information and to address specific concerns with the processing of subdivision filings. There is still not an independent REAC but the Bureau states that it routinely establishes task forces and special projects with industry volunteer participants to tackle key issues.

- **ISSUE # 3: Should the Real Estate Law be amended to clarify that protection of the public is the highest priority of the DRE?**

SB 706 (Price, Chapter 712, Statutes of 2011) made this change by adding BPC § 10050.1

- **ISSUE # 4: Are education levels for licensed brokers and salespersons adequate?**

CalBRE believes that the current license requirements are appropriately balanced to provide prerequisite entry level standards of knowledge with the creation of jobs and economic opportunity. The Bureau notes, that since the 2009 LAO report, there have been a few changes to the broker prerequisites and license CE requirements. Specifically, in 2012 AB 1718 amended the college degree requirements to obtain a real estate broker license. Prior to AB 1718, the real estate law allowed a real estate broker exam applicant to use a four year college degree, in lieu of two years experience as a real estate salesperson, to qualify for the broker exam. AB 1718 requires that only a four year degree with a major or minor in real estate may be used to qualify for the broker's exam in lieu of two years' experience as a salesperson. The Bureau notes that, effective 2016, with the passage of AB 345, licensees will be required to take CE course work in the management of real estate offices and supervision of real estate activities in order to renew a license.

- **ISSUE # 5: The number of candidates sitting for the examinations has fallen significantly. What adjustments has the DRE made because of this dramatic decrease in the number of examinations given?**

During the licensing and examination boom in the mid 2000s, the CalBRE experienced a large increase in processing times. To address the huge increase in workload, CalBRE expended resources IT solutions instead of increasing staff. Specifically, DRE developed online systems, including an online exam scheduling and license renewal system. Once the online systems were deployed, processing times improved. The processing times also benefited from the

decline of applicants due to the downturn. With the current surge of applicants, CalBRE is looking at additional IT enhancements and other potential solutions to the current increase in workload. With respect to revenues, in 2009 DRE/CalBRE raised license fees to the statutory maximums to compensate for the dramatic drop in licensing. The fee increase and adequate reserves has resulted in adequate revenues to cover expenses.

- **ISSUE # 6: Examination development and examination validation.**

CalBRE's last examination validation study was completed in July 2013 and the Bureau reports that it is in the early stages of performing a new examination validation study to once again review the exam content, categories and subject matter. The Bureau has met with, and will be working with the DCA Office of Professional Examinations, to begin an examination validation study during FY 2016/2017.

- **ISSUE # 7: New Mortgage Loan Originators (MLO) license endorsement issues.**

CalBRE believes that the new MLO licensing requirements have raised the standards for those that engage in mortgage loan originations. The new paradigm has weeded out the casual, less educated loan originators that were prevalent during the real estate bubble. CalBRE has been issuing endorsements since 2011 and has not experienced any significant issues with either the issuing of the endorsements or with disciplinary actions against endorsees.

- **ISSUE # 8: The number of licensed brokers and salespersons has decreased in recent years. What adjustments has DRE made because of this decrease in numbers?**

See Issue #1 – Staff Recommendation questions under Current Issues.

- **ISSUE # 9: Has DRE adopted regulations regarding disclosure of license identification numbers?**

CalBRE reports that it does not believe further amendments to its regulations are necessary because existing law addresses this issue. Specifically, BPC § 10140.6, which was amended by SB 36 (Calderon, Chapter 160, Statutes of 2009), requires MLOs to disclose their assigned unique identifier number on all solicitation materials intended to be the first point of contact with consumers and on real property purchase agreements when acting as an agent in those transactions. The CalBRE has notified its licensees of this statutory requirement, and is currently enforcing this provision of law.

- **ISSUE # 10: Has the DRE found problems related to reverse mortgages, and are any changes needed so that DRE can address any emerging problems in this area?**

CalBRE reports that it has not identified or received any complaints involving reverse mortgages over the past three years. However, through the CalBRE Speaker's Bureau, CalBRE has partnered with the Contractor's State License Board and its Senior Scam Stopper program, consumer groups and legislative staff to provide information on how to avoid fraud.

CalBRE provides its publication Reverse Mortgages - Is One Right for You? as part of the handouts at such events. This brochure explains the pros and cons of reverse mortgages and is geared toward senior citizens. The Bureau states that it continues to monitor real estate scams and provide consumer outreach in a variety of formats including consumer alerts, brochures, speaking engagements, forums with industry, interactions with mortgage counselors, law enforcement and regulatory partners, as well as mortgage professional associations.

- **ISSUE # 11: Are there improvements that could be made to the current continuing education program?**

According to the Bureau, consumer protection would not be enhanced by an initiative to spread out the CE and that requiring annual CE with a four-year license term would be costly and create logistical problems due to the large licensee population. CalBRE notes that it does require completion of CE as part of certain license disciplinary actions when a lack of knowledge is perceived and that under the SAFE Act individuals with a MLO license endorsement are required to complete annual CE requirements.

- **ISSUE # 12: Should the DRE be given authority to issue administrative citations and fines to real estate licensees?**

Cite and Fine authority was provided by SB 53 (Calderon, Chapter 717, Statutes of 2011) and has been implemented.

- **ISSUE # 13: Should the DRE disclose the status of every license, including: suspensions and revocations, whether or not the licensee or former licensee is in good standing, or has been subject to discipline by the DRE, or by the department of another state or jurisdiction?**

CalBRE posts on its website the status of every license and any disciplinary action taken against a licensee. Pursuant to BPC § 10083.2, which was added by SB 706 (Price, Chapter 712, Statutes of 2011), CalBRE appends all accusations and disciplinary actions to a licensee's online license records which can be accessed by a click of a mouse.

- **ISSUE # 14: The DRE does not have the ability to request cost recovery.**

SB 706 (Price, Chapter 712, Statutes of 2011) added BPC § 10106 so CalBRE now has the authority to ask an administrative law judge to order investigative costs to be paid by a respondent found to have violated the Real Estate Law. CalBRE asks for cost recovery in nearly all its administrative actions.

- **ISSUE # 15: Should the DRE be authorized to recover reasonable costs for probation monitoring for a licensee who is placed on probation by an administrative law judge?**

SB 706 (Price, Chapter 712, Statutes of 2011) added BPC § 10186 so CalBRE now has the right to charge a restricted licensee the cost of monitoring his or her activity. In cases where disciplinary action is taken due to trust fund shortages or trust fund record keeping, CalBRE charges the respondent licensee the cost of a follow up audit.

- **ISSUE # 16: Should DRE be authorized to contract with a collection service for the purpose of collecting outstanding fees, fines, or cost recovery amounts?**

CalBRE has contracted with a collection agency and employs its services when appropriate.

- **ISSUE # 17: Should the DRE be given authority to enter into stipulated settlements without filing an accusation against a licensee?**

SB 706 (Price, Chapter 712, Statutes of 2011) added BPC § 10100.4 so CalBRE now has the authority to enter into settlement agreements.

- **ISSUE # 18: Should a DRE license be automatically suspended while the licensee is incarcerated?**

SB 706 (Price, Chapter 712, Statutes of 2011) added BPC § 10186.1 so CalBRE has the authority to suspend a license of a licensee who is incarcerated.

- **ISSUE # 19: Should there be a prohibition of Gag Clauses in Civil Dispute Settlement Agreements?**

AB 2570 (Hill, Chapter 561, Statutes of 2012) added BPC § 143.5 which addressed this issue by prohibiting a licensee of any board, bureau, or program under DCA from using or allowing the use of confidentiality agreements, or “gag clauses,” in settlement agreements.

- **ISSUE # 20: Should the failure to cooperate with a DRE investigation by a licensee be unprofessional conduct, thereby making the license subject to disciplinary action?**

The Bureau has not taken a position or made changes related to this issue.

- **ISSUE # 21: Should DRE licensees be required to report to DRE upon arrest, conviction or upon any disciplinary action taken against the licensed person by another state or federal regulatory agency?**

SB 706 (Price, Chapter 712, Statutes of 2011) added BPC § 10186.2 requiring real estate licensees to report to CalBRE within 30 days of the bringing of an indictment or charging of a felony or conviction or disciplinary action taken by another licensing entity or state authority or that of another state or the federal government.

- **ISSUE # 22: Should the DRE be authorized to hire a certain number of investigators with the authority and status of peace officers?**

CalBRE has access to sworn peace officers through DCA’s Division of Investigation.

- **ISSUE # 23: Should court clerks be required to report to DRE when a judgment is entered against a DRE licensee for a crime or personal injury; or when a felony charge is filed against a DRE licensee?**

The Bureau has not taken a position or made changes related to this issue.

- **ISSUE # 24: Does DRE have adequate authority to suspend a license when necessary to protect the public?**

CalBRE states that it has sufficient disciplinary tools and cites changes made through SB 706 (Price, Chapter 712, Statutes of 2011) which allows the Bureau to automatically suspend the license of a licensee who is incarcerated (irrespective of a conviction), or issue a restricted license pursuant to BPC § 10156.6 to a licensee who has violated the Real Estate Law. The Commissioner has the ability to add a restriction to a license to ensure the interest of the public is served.

- **ISSUE # 25: Should the DRE utilize the authority under Section 23 of the Penal Code to request that a judge in a criminal case suspend or restrict a licensee?**

CalBRE states that it has on occasion, when appropriate, made recommendations to the court in criminal proceedings against a real estate licensee.

- **ISSUE # 26: Should an independent enforcement program monitor be appointed to investigate and evaluate the DRE's enforcement program?**

CalBRE does not believe the recommendation is necessary and has not utilized an independent monitor to evaluate its enforcement program. The Bureau states that it performs its investigations in a timely manner and is successful in achieving license discipline.

- **ISSUE #27: Are there improvements the DRE can make to enhance its internet capabilities?**

CalBRE cites its implementation of an online complaint system as compliance with the prior recommendation.

- **ISSUE #28: What is the status of the enhancements to the DRE's Enterprise Information System?**

CalBRE reports that its system is supported by six IT staff who must also support the databases, networks, various state mandates from the California Technology Agency, and critical components of the infrastructure upon which the system is dependent. CalBRE reports a significant IT enhancement is the creation of an online Subdivision Public Report Application, slated for deployment early next fiscal year, which will allow developers to electronically submit public report applications which will reduce filing errors and greatly

enhance efficiencies. The online Public Report process is expected to be deployed early next fiscal year.

- **ISSUE #29: Electronic examinations.**

CalBRE has electronic exam centers in San Diego, Los Angeles, Fresno, Oakland and Sacramento.

- **ISSUE # 30: Is the DRE adequately funded to cover its administrative, licensing and enforcement costs and to make major improvements to its enforcement program?**

CalBRE believes it is appropriately funded.

- **ISSUE # 31: Does the DRE have adequate resources to fully implement the licensing and enforcement requirements inherent in SB 36?**

In 2010, CalBRE pursued a BCP to implement SB 36 and obtained the necessary personnel to implement its provisions.

- **ISSUE # 32: Is the criteria for access to payment from the Recovery Account too cumbersome and expensive, making it difficult for consumers to obtain payments from the Recovery Account? Is the Recovery Fund underutilized for purposes of consumers claims?**

CalBRE notes that CRA paid victims of real estate fraud perpetrated by licensees in record amounts in the past two years, with another record expected next fiscal year. The Bureau is concerned with any effort to eliminate the requirement for obtaining a civil judgment for intentional fraud or a criminal restitution order based on a conviction similar to intentional fraud or conversion of trust funds in order to access CRA funds. The Bureau notes that CRA was intended to be a limited "fund of last resort" and is concerned about expanding provisions to consumers harmed by unlicensed activity. The Bureau cites BPC § 10471 (c)(7) and the requirement that payment from the CRA results after a claimant "... has diligently pursued collection efforts against all judgment debtors and all other persons liable to the claimant in the transaction that is the basis for the underlying judgment."

- **ISSUE #34. Should the licensing and regulation of real estate brokers and salespersons be continued and be regulated by the current Department of Real Estate?**

DRE was continued in operation and subsequently became the new CalBRE through the Governor's Reorganization Plan of 2012

- **ISSUE # 35: Should the Office of Real Estate Appraisers (OREA) be consolidated with the DRE?**

OREA also became part of DCA as a bureau, the Bureau of Real Estate Appraisers (BREA) through the Governor's Reorganization Plan of 2012.

CURRENT SUNSET REVIEW ISSUES FOR THE BUREAU OF REAL ESTATE

The following are unresolved issues pertaining to the Bureau, or those which were not previously addressed by the Committees, and other areas of concern for these Committees to consider, along with background information concerning the particular issue. There are also recommendations the Committees' staff have made regarding particular issues or problem areas which need to be addressed. The Bureau and other interested parties, including the professions, have been provided with this Background Paper and can respond to the issues presented and the recommendations of staff.

ADMINISTRATIVE ISSUES

ISSUE #1: (STAFFING) Does the Bureau have the correct number of authorized positions and staff in those positions to fulfill its responsibilities?

Background: The Bureau currently has 332.7 authorized positions. With the improvement of the Real Estate market, the Bureau states that it will experience additional workload issues across all units and that while current efforts to deal with increased workload may provide temporary relief, it cannot sustain staffing needs in the long run.

In particular, CalBRE's Subdivision Program has faced staffing shortages. Before marketing new subdivisions in California, subdividers must apply for and receive a Public Report from CalBRE. Applications for a Public Report include an analysis and verification of such specifics as schools, fire protection, water, sewer systems and costs and assessments for maintaining homeowners' associations and common areas. Current law mandates that prospective buyers must receive a copy of the Public Report upon request by a prospective purchaser and always before a buyer becomes obligated to purchase a lot or unit within a subdivision (BPC § 11226(a)).

The improvement in California's economy has resulted in an increase in development and in new home construction. As a result, applications for a Public Report have increased from developers. For 2014, 29,804 units were built whereas in 2015 32,298 units were created. The increase in applications has resulted in an additional 4.4 days on average for CalBRE staff to issue a Public Report. The current forecast is for the continued growth in the number of applications for a Public Report, with an increasing risk that the Bureau would be unable to achieve its statutory mandate of completing its reviews within 60 days. Without additional staffing to address the increase of applications for Public Reports, approval of new commercial projects and housing developments could be stalled. The Governor's proposed 2016/17 budget includes a BCP for authority for the Bureau to hire 3 additional investigators to support this program.

It would be helpful for the Committees to understand the long-term staffing needs of CalBRE and what efforts are currently being undertaken to meet these needs.

Staff Recommendation: *CalBRE should inform the Committees of the effects of staff constraints, including current staffing levels, and how vacancies may be impacting the program. How is the Bureau attempting to recruit qualified staff and what support from the DCA is the Bureau receiving*

in order to maintain stabilized levels of qualified staff? Since the licensee population directly correlates with the fluctuating real estate market, how does CalBRE organize staff during high and low licensee populations? Are there certain areas, such as investigations, that are particularly being impacted by staffing challenges? How has the DCA responded to the Bureau's requests for assistance from the DCA's Division of Investigation?

ISSUE #2: (STRATEGIC PLAN) What is the status of the Bureau's strategic plan?

Background: The process of creating a Strategic Plan sets the foundation for a regulatory entity's efforts to effectively do its job. CalBRE reports in its report to the Committees that it has started the process of developing a new Strategic Plan. CalBRE reached out to staff and contacted over 100,000 stakeholders and consumers requesting their participation in an anonymous survey about the Bureau as a means of identifying strengths and areas in need of improvement. CalBRE received only around 3,000 responses which are being used to identify areas of improvement and to develop a plan to address the areas of concern.

The Bureau acknowledges that the transition from an independent department to a bureau within the DCA has created a new dynamic and changes to the Bureau's functions. It would be helpful for the Committees to understand how future CalBRE goals are being developed.

Staff Recommendation: *The Bureau should report to the Committees on the progress of updating its Strategic Plan, including the timeline for completion as well as strategies the Bureau will use to address new and existing issues raised through the Sunset Review process.*

ISSUE #3: (PUBLIC OUTREACH) Should an advisory committee, similar to the former Real Estate Advisory Commission, be established with a public member majority to advise the Commissioner and give policy input to the CalBRE, the Administration, and the Legislature?

Background: As noted above, the REAC was repealed in 2005 along with eight other boards and commissions within state government through a budget trailer bill (SB 64, Chapter 77, Statutes of 2005), stemming from efforts to eliminate a number of boards and commissions.

The REAC was a ten member advisory panel appointed by the Commissioner, who presided over meetings. The REAC was comprised of six licensed real estate brokers, and four non-licensee members of the public. The meetings were required to be held at least four times a year and were subject to the open meetings act, including the access of all REAC to the public. The law governing REAC required it to meet with, consult and advise the Commissioner on the functions and policies of the DRE and how it may best serve the people of the state and recognizing the legitimate needs of the industry which it regulates and the licensees of the department. Views and suggestions of both the public and licensees were statutorily required to be solicited at REAC meetings and the REAC advised on regulations. The former REAC did not meet consistently and ideas about forming ad hoc committees under the DRE were supported, given challenges related to REAC membership and leadership at the DRE.

Many bureaus under the DCA have statutorily created advisory committees, however CalBRE currently does not have an advisory committee. An entity that consistently meets in a public capacity and is subject to the notice requirements of the open meeting laws can be a valuable forum for input from the public, including consumers and consumer interest groups, licensee discussions, and issues raised by public members of that commission. Advisory committees also enhance the transparency of the overseeing regulatory agency.

In carrying out its role and responsibilities, it would seem as if an advisory committee like the former REAC could be an effective forum to better inform CalBRE, the Administration, and the Legislature on important policy decisions which need to be made for the future of the real estate profession in California. This especially seems to be true in light of the complex issues that have arisen in the previous financial meltdown and home mortgage crisis.

From a layperson's perspective, it appears that CalBRE's main interaction with the public is only through California Association of Realtors-sponsored conventions. Moreover, industry conventions are not always forums which create opportunities for interaction with the public.

Staff Recommendation: *CalBRE should detail its efforts to provide a consistent forum for input from the public and from licensees since the elimination of REAC in 2005. The Committees may wish to establish an advisory committee to CalBRE as a means of advising the Commissioner and providing policy input to CalBRE, the Administration, and the Legislature.*

ISSUE #4: (RELATIONSHIP WITH DCA FOLLOWING THE 2012 REORGANIZATION AND TRANSFER TO THE DCA) Has DCA provided adequate resources and management to CalBRE?

Background: Since the Governor's Reorganization Plan of 2012, CalBRE appears to be lacking in the receipt of some key services like human resources support and management direction. CalBRE notes that purchase orders, IT orders, contract payments, employee reimbursement (CalATERS), and miscellaneous human resources requests have been skipped or have not been processed since the DRE became CalBRE. CalBRE reports that it has sent notices to DCA and does not always receive timely responses.

DCA has additionally failed to provide consistent, on-time payment for utility bills. On January 15, 2015, a San Diego utility provider shut off electricity at a licensee examination center. Two other utility shutdowns have occurred since the transfer to DCA.

CalBRE was especially concerned about the misplacement of a \$46,000 premium refund check payable to CalBRE from the Fund and the subsequent six month delay in depositing the check into the Fund.

CalBRE also reports that it has requested sworn peace officers from DCA's Division of Investigation (DOI) to help support investigations, such as those related to unlicensed activity, that may require subpoena power and arrest authority. It appears that there have been delays in CalBRE obtaining the support it needs for these cases.

Previous legislation (AB 1545, Irwin of 2015) attempted to create a State of California Housing Agency which would have transferred CalBRE back to an independent Department. It would be helpful for the Committees to hear from the DCA and CalBRE on the transition from Department to Bureau and what DCA does to meet the Bureau's needs.

With similar reports from other DCA entities, DCA and CalBRE should both discuss the transition from Department to Bureau and how DCA can better meet CalBRE needs. Given DCA's apparent inconsistency in management, CalBRE and DCA should jointly explain how to increase efficiency.

Staff Recommendation: *CalBRE should update the Committees as to whether DCA's functions and role have improved and whether any new efficiencies have taken place.*

ISSUE #5: (CALL CENTERS) Does CalBRE have adequate resources to answer and address consumer calls?

Background: CalBRE reports that its Public Information Line receives around 30,000 calls per month, of which 22,000 request to speak to a live person and 8,000 navigate through a phone tree. Of the 22,000 callers that request to speak to a live person, they are forwarded to a queue and wait approximately 40 minutes. 3,500 of those callers abandon the call while 18,500 eventually talk to someone. Last fiscal year (2014-15), the average hold time was 37 minutes. Last calendar month (January) it was 41 minutes. As shown by these statistics, the wait time for consumers is slowly rising.

It would be helpful for the Committees to understand what steps might be taken for CalBRE to be as responsive as possible to callers, particularly as the Bureau reported that complaints may be received via telephone.

Staff Recommendation: *CalBRE should explain to the Committees what the Bureau can do to improve the efficiency and effectiveness of the Public Information Line. What steps is the Bureau taking to be more responsive to people who contact the Public Information Line and how can wait times be reduced? CalBRE should inform the Committees how, if at all, it engages with staff weekly to provide updated customer service suggestions, training information, and standardized scripts. Is more staff needed for the Public Information Line? Are there technological improvements that could be made to improve caller access and mitigate wait times?*

ISSUE #6: (CalBRE INFORMATION TECHNOLOGY) CalBRE has its own system to support its regulatory activities. How does the DCA support the Bureau's system?

Background: To increase the efficiency of the examination and licensing processes, the then DRE developed eLicensing, an interactive online system that allows examination and licensing processes to be completed via the Internet. eLicensing has the available services:

- Broker renewals (instant)
- Salesperson renewals (instant)

- Salesperson terminations
- Update contact information (email and phone numbers)
- Salesperson changes of employing broker
- Broker main office address changes
- Mailing address changes
- Print license certificate
- Examination services

The Bureau is not participating in the development of the DCA’s BreEZe system and there are currently no plans to transition to BreEZe.

Staff Recommendation: *CalBRE should report on continued efforts to enhance the eLicensing system and support it receives from the DCA for this system.*

BUDGET ISSUES

ISSUE #7: (PRO RATA) What services does CalBRE receive for its share of pro rata?

Background: Through its various divisions, DCA provides centralized administrative services to all boards and bureaus. Most of these services are funded through a pro rata calculation that is based on "position counts" and charged to each board or bureau for services provided by personnel, including budget, contract, legislative analysis, cashiering, training, legal, information technology, and complaint mediation. DCA reports that it calculates the pro rata share based on position allocation, licensing and enforcement record counts, call center volume, complaints and correspondence, interagency agreement, and other distributions. In 2014, DCA provided information to the Assembly Business, Professions and Consumer Protection Committee, in which the Director of DCA reported that "the majority of [DCA's] costs are paid for by the programs based upon their specific usage of these services." DCA does not break out the cost of their individual services (cashiering, facility management, call center volume, etc.).

CalBRE reports that it utilizes DCA for a minimum number of administrative functions, mainly public affairs and HR. The Bureau has its own in-house services, including an IT system (eLicensing and an Enterprise Information System (EIS)), Legal Counsel, and Public Information Line service. While it appears that the DCA provides assistance to CalBRE, it is unclear how the pro rata rates are calculated and charged to the Bureau. Additionally, the question arises as to whether the amount charged equates to the amount of services utilized by the Bureau.

For FY 2016/2017, the Bureau's licensing program accounted for 18 percent of the Bureau's expenditures, the enforcement program accounted for 52 percent, the subdivision program accounted for 11 percent and the administration costs accounted for 9 percent. The Bureau's DCA Pro Rata costs accounted for 10 percent of the Bureau’s expenditures.

The following lists the breakdown, by year, of the amount of money CalBRE paid or is projected to pay to DCA for pro rata:

FY 2013/2014: \$1.83 million
FY 2014/2015: \$2.74 million
FY 2015/2016: \$4.88 million
FY 2016/2017: \$5.20 million

Since CalBRE functions primarily as an independent entity, it would be helpful for the Committees to better understand why pro rata charges have more than doubled since FY 2013/2014.

Staff Recommendation: *CalBRE should advise the Committees about the basis upon which pro rata is calculated, and the methodology for determining what services to utilize from DCA. CalBRE should also explain to the Committees why CalBRE's pro rata has more than doubled over the span of two years.*

ISSUE #8: (LOAN REPAYMENTS) Why has CalBRE not received any loan repayments since the Budget Act of 2002?

Background: The final budget for FY 2002/2003 states the following:

2320-011-0317 - For transfer by the Controller, upon order of the Director of Finance, from the Real Estate Commissioner's Fund to the General Fund - (\$10,900,000)

Provisions:

1. The transfer made by this item is a loan to the General Fund. This loan shall be repaid with interest calculated at the rate earned by the Pooled Money Investment Account at the time of the transfer. It is the intent of the Legislature that repayment be made so as to ensure that the programs supported by this fund are not adversely affected by the loan.

2. The amount borrowed by the General Fund from the Real Estate Commissioner's Fund shall not be considered a transfer pursuant to BPC § 10226.5 and, therefore, shall not affect the amounts of fees collected by the Department of Real Estate.

Since this loan, no repayments have been made to the Bureau. Keeping in mind previous special fund agency loans and litigation, CalBRE should update the Committees on any efforts the Bureau has made to recoup these monies.

Staff Recommendation: *What is the Bureau doing to receive reimbursements for these loans? What is the status of current conversations or further discussion about future repayments?*

LICENSING AND ENFORCEMENT ISSUES

ISSUE #9: (LIMITED ENGLISH PROFICIENT APPLICANTS) What can CalBRE do to improve access to licensing materials and exams for limited English proficient (LEP) applicants?

Background: Throughout CalBRE's 2015 Sunset Report, there is little to no reference of accommodations for non-English speaking consumer or applicants. While CalBRE's website has released some consumer publications in Spanish, it appears that the Bureau does not have services to accommodate non-English speakers.

According to information from the United States Census Report in 2011, 43 percent of Californians, or more than 15 million residents, reported that they spoke a language other than English at home. While CalBRE's mission is mainly to protect consumers, it also has a responsibility to its licensing population to ensure that current licensees and potential licensees are able to obtain the appropriate instruction and training necessary to meet California's safety standards, while expanding employment and business opportunities for individuals throughout the State. CalBRE has one of the highest licensing populations of all DCA entities. Given the large licensing population, CalBRE needs to ensure its diverse population obtains access to the appropriate education and, upon completion of a Bureau-approved curriculum, is able to pass the required licensing examinations. It would be beneficial for CalBRE to also focus its efforts with schools and examination providers to better understand the issues presented to LEP test takers to ensure that testing problems do not hinder an applicant's ability for licensure.

Also, it is important to note that other states, like New York, have translated most application forms into other languages as a means of ensuring that candidates can enter the profession regardless of the language they are most comfortable speaking.

Staff Recommendation: *CalBRE should explain to the Committees its outreach efforts to LEP consumers and applicants. The Bureau should explain steps it is taking to ensure outreach to LEP interested parties, including consumers and licensees.*

ISSUE #10: (CITE AND FINE PROGRAM UPDATE) Has CalBRE's ability to cite and fine authority increased licensee compliance with the law?

Background: On January 1, 2012, the Bureau was given citation and fine authority, through the passage of SB 53 (Calderon, Chapter 717, Statutes of 2011). The regulations implementing CalBRE's citation authority went into effect on July 1, 2014.

Prior to the enactment of SB 53, the Bureau could pursue various levels of administrative/disciplinary action:

- Corrective Action Letter, a warning from the Bureau that respondent's actions violate the Real Estate Law but does not warrant formal discipline;
- Order to Desist and Refrain, where the violation is more serious or where an unlicensed person conducts licensed real estate activities;
- Statement of Issues or Accusation, formal action where the Bureau seeks to deny a license application or impose formal discipline on an existing licensee;
- Order of Debarment, formal action where the Bureau seeks to separate a respondent from the real estate industry.

Since CalBRE's cite and fine program was implemented after its previous Sunset Review, it would be helpful for the Committees to better understand the effectiveness of this program.

Staff Recommendation: *CalBRE should advise the Committee's on the efficiency and effectiveness of the cite and fine program since its 2012 implementation. Additionally, CalBRE should explain the large increase in citations from 2013-2015 and highlight whether or not this program has helped to curb common violations.*

ISSUE #11: (DISCIPLINARY ACTION) Should the failure to cooperate with a CalBRE investigation by a licensee be unprofessional conduct, thereby making the licensee subject to disciplinary action?

Background: In dealing with other regulatory agencies, a significant factor preventing the timely completion of investigations often is the refusal of some licensees to cooperate with an investigation of the regulatory agency. This refusal to cooperate routinely results in significant scheduling problems and delays, countless hours wasted serving and enforcing subpoenas, and delays resulting from the refusal to produce documents or answer questions during interviews. The enactment of a statutory requirement could at times significantly reduce the substantial delays that result from a licensee's failure to cooperate during a CalBRE investigation. Also, other regulatory boards under DCA have provisions requiring its licensees to cooperate with investigations.

This issue was brought up in CalBRE's 2011 Sunset Review and has yet to be addressed.

Staff Recommendation: *Since this issue could directly impact the aging of cases, CalBRE should advise the Committees what actions would be necessary to create a legal requirement for its licensees to respond to investigative inquiries and provide requested documents within a specified period of time.*

ISSUE #12: (LICENSEE SUSPENSION) Does CalBRE have enough authority to regulate its licensees?

Background: Currently, BPC § 10177 (b) is written in such a way that it requires "the time for appeal" to elapse on a guilty plea before CalBRE can use it for disciplinary action. The full language for BPC § 10177(b) reads:

***BPC § 10177.** The commissioner may suspend or revoke the license of a real estate licensee, delay the renewal of a license of a real estate licensee, or deny the issuance of a license to an applicant, who has done any of the following, or may suspend or revoke the license of a corporation, delay the renewal of a license of a corporation, or deny the issuance of a license to a corporation, if an officer, director, or person owning or controlling 10 percent or more of the corporation's stock has done any of the following:*

(b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony, or a crime substantially related to the qualifications, functions, or duties of a real

estate licensee, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following that conviction, suspending the imposition of sentence, or of a subsequent order under Section 1203.4 of the Penal Code allowing that licensee to withdraw his or her plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information.

In a number of cases, especially in federal prosecutions, guilty pleas are entered and sentencing does not take place for a long time. For instance, in one mortgage fraud case which occurred in Bakersfield, a defendant pleaded guilty to bank fraud in 2013, and his sentencing did not occur for many months after. In other cases, the sentencing does not take place for years.

The ability for the Bureau to take swift action against a licensee and promote public health and safety appears to be limited by this section of statute. Without the authority to suspend a license from a real estate licensee who voluntarily enters a guilty plea to a felony or substantially related crime, real estate licensees are able to continue to practice real estate.

With this in mind, the Committees may wish to discuss the following language, similarly modeled to BPC § 10186.1. This proposed language would be added on to BPC § 10177(b). The proposed language states:

“Notwithstanding the above, and with the recognition that sentencing may not occur for months or years following the entry of guilty pleas, the commissioner may immediately suspend the license of a real estate licensee upon the entry of a guilty plea to the crimes mentioned above. If the pleas are withdrawn, the suspension shall be rescinded”.

To protect due process rights, if the licensee were to withdraw the plea the suspension would be lifted.

Staff Recommendation: *The Committees should consider the above amendment to better allow CalBRE to regulate its licensees. CalBRE notes this as an issue and should further explain how the authority would enhance its enforcement functions.*

ISSUE # 13: (REPORTING REQUIREMENTS) Should court clerks be required to report to CalBRE when a judgment is entered against a Bureau licensee for a crime or personal injury, or when a felony charge is filed against a Bureau licensee?

Background: When a judgment is entered against a licensee, or when a licensee is charged with a felony, it is important for CalBRE to be notified so that it can take action against a licensee if the circumstances of the judgment or charge warrant disciplinary action. This is basic information that should be reported by the clerk of the court to the CalBRE. Similar provisions already apply to a number of regulatory boards under DCA, such as the Medical Board, Physician Assistant Board, and Podiatric Medicine Board (BPC § 803.5).

A similar recommendation was made in the 2011 sunset review by the Committees and the language was included in the Committee Chair's bill to implement the recommended changes; SB 706 (Price,

Chapter 712, Statutes of 2011). However, this language was amended out on May 31, 2011 in Senate Appropriations Committee due to fiscal concerns.

Staff Recommendation: *The Committees should discuss amendments to require that the clerk of the court provide notice to CalBRE, if there is a judgment for a crime committed in excess of \$30,000, for which the licensee is responsible due to negligence, error or omission in practice, or his or her rendering unauthorized professional services. The law should further be amended to require the clerk of the court to report any filings of charges of a felony against a real estate licensee to CalBRE.*

ISSUE # 14: (REPORTING REQUIREMENTS) Should CalBRE licensees be required to report to the Bureau upon arrest?

Background: Other than subsequent arrest records provided to CalBRE from DOJ, there is no requirement by local officials or organizations, or other professionals, or for civil courts to report actions taken against a licensee. However, mandatory reporting requirements of criminal or licensing violations are set forth in BPC §10186.2 and BPC §10178.

BPC §10186.2 requires a real estate licensee to notify the Bureau, within 30 days, of an indictment, felony charge, conviction, or any disciplinary action taken by another licensing entity or authority in California, other state, or by a federal agency.

BPC § 10178 requires an employing broker to report to the Bureau whenever a real estate salesperson is terminated by the broker for any violation of the Real Estate Law. Real estate brokers failing to notify the Bureau of such terminations may be subject to disciplinary action.

This recommendation would put CalBRE on notice that a licensee may have committed criminal acts which would be cause for disciplinary action by the CalBRE.

Staff Recommendation: *The Real Estate Law should be amended to ensure that CalBRE licensees submit a report to the Bureau when arrested.*

CONSUMER RECOVERY ACCOUNT ISSUES

ISSUE #15: (CONSUMER RECOVERY ACCOUNT) Is the CRA working?

Background: At the end of each fiscal year, CalBRE usually transfers all but \$3.5 million out of the Consumer Recovery Account to the Real Estate Fund. The Bureau notes that it continues to feel the aftermath of the mortgage meltdown and reports that it will possibly pay close to \$8 million this fiscal year to aggrieved persons from the Consumer Recovery Account.

Additionally, the CalBRE reported in its sunset responses to the Committees that some expansions of the use of the fund and additional options to access those monies could be difficult and problematic. Specifically, CalBRE does not believe that the current requirement for applicants to obtain a civil

judgment or criminal restitution order (or a proper arbitration award) should be eliminated because if that were the case, the "fact finding" as the Bureau terms it, performed by the civil and criminal courts would have to be done in a hearing before an administrative law court. The Bureau is concerned that those findings would have to include not only the liability of a licensee for intentional fraud or conversion of trust funds, but whether the victim is an "aggrieved person" for whom the CRA's benefits were meant to apply, the amount of the victim's "actual and direct loss" in the transaction, whether the acts of the licensee in the transaction actually required a real estate license, and, finally, the administrative law judge would also have to render a money judgment for a particular victim or victims. The Bureau states that rendering a money judgment (which that "judgment creditor" could then assign to CalBRE upon payment from the CRA) for a private victim is not within the jurisdiction of an administrative law court.

CalBRE notes that an administrative hearing is held by CalBRE to either prove that a licensee has violated the Real Estate Law or regulations, or to deny an applicant's effort to obtain a license on various grounds and as such, the administrative hearing is not a forum to advocate for any particular victim. The Bureau notes that no government agency attorney, at any level, represents the private interests of any particular private individual but rather it is a forum in which CalBRE seeks to enforce the law and regulations relating to acts requiring a real estate license, and is undertaken with the primary goal of protecting the public in general. CalBRE states that its counsel does not represent the victim, and does not have the victim's interest as his primary consideration.

CalBRE is also concerned about joining as defendants or respondents in administrative law cases against unlicensed persons because the Bureau does not have jurisdiction over persons to whom it does not grant licenses. The Bureau states that justice would be fractured by either forcing a consumer/victim to pursue a civil case for a money judgment, specific performance, or other equitable remedy against an unlicensed person, while at the same time, participating in an administrative disciplinary case brought by CalBRE against any licensee(s) who defrauded that victim. CalBRE states that when a disciplinary action is filed against a licensee for fraud, the Bureau's primary interest of protecting the public dictates that the licensee be put out of business as quickly as possible, to prevent further loss. One of the means CalBRE uses to accomplish that goal is to accept the surrender of the real estate license. As surrender is a form of settlement, there are typically no admissions of the factual allegations of the accusation. There are also no findings of fact which could provide any benefit to a defrauded victim. The process of accepting surrender in lieu of putting on an administrative hearing is done to conserve resources in appropriate cases. According to CalBRE, if a claimant had to depend on a disciplinary action against a licensee to provide access to the Consumer Recovery Account, CalBRE's practice of accepting surrenders from errant licensees would be in direct contradiction of the victim's dependence on CalBRE's finding of intentional fraud.

The Bureau cites prior legislation that expanded access to the CRA in justifying why additional uses may not be necessary. Specifically, CalBRE supported 2002 legislation to remove two technical defenses to payment, one that would have denied payment to a claimant when a real estate salesperson committed fraud without acting under the supervision and control of his employing broker and the second would have denied payment if a salesperson were doing acts which required a broker license. CalBRE also highlights the ability of a claimant to access the CRA by obtaining a criminal restitution order as another means of expanding the pool of claimants because, contrary to a civil action in which a defrauded victim typically pays both attorney fees and costs, there is no cost to a victim who obtains

a criminal restitution order. The Bureau also notes that increasing transaction limits from \$20,000 to \$50,000 per transaction and from \$100,000 to \$250,000 per licensee was another means by which the CRA's benefits were enhanced.

The Bureau believes that access is currently fair and less costly than it was in the past and that benefits are more available, while the account is still able to be solvent.

It would be helpful for the Committees to better understand how monies from the CRA are transferred, what transferred monies are utilized for and whether there could be unintended consequences to consumers if the CRA is not robust and made as available as possible to consumers.

Staff Recommendation: *Why are the CRA funds transferred every fiscal year? For what purpose are those additional monies used? Will monies still be transferred despite the expected high payout for 2016? Should licensing fees be increased to avoid transfers from the CRA to the Real Estate Fund?*

CONTINUED REGULATION OF THE PROFESSION BY THE BUREAU OF REAL ESTATE

ISSUE #16: (SHOULD THE BUREAU BE CONTINUED?) Should the licensing and regulation of salespersons and brokers be continued and be regulated by the Bureau?

Background: The welfare of consumers is best protected when there is a well-regulated real estate profession. Although CalBRE faces a number of challenges, it should be continued with the recommendation for further review by the Committee in four years.

This is the Bureau's first Sunset Review since moving under DCA and thus should have the opportunity to address new and existing issues raised within the Bureau as well as from the Committees. The Bureau and Department appear committed to working collaboratively with the Legislature and the Committees to find solutions moving forward in the regulation of this important industry.

Staff Recommendation: *Staff recommends that the Bureau's operations and Real Estate Law, the Subdivided Lands Act, and the Vacation Ownership and Time-share Act be reviewed again in four years by the respective Committees of the Senate and Assembly. Recommend that salespersons, brokers, mortgage loan originators, and prepaid rental listing services, and the Subdivided Lands Act and the Vacation Ownership and Time-share Act of 2004 continue to be regulated by the Bureau in order to protect the interests of licensees and the public.*